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Jennifer Nash, Robert Owens,  
Larry Treadwell, and Brian Williams*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

NEILL SAMUELL,

Plaintiff,

v.

ALMONA, *et al.*,

Defendants.

Case No. 2:19-cv-01269-JAD-NJK

**DEFENDANTS' MOTION FOR A  
FORTY-FIVE DAY EXTENSION OF  
TIME TO ANSWER OR RESPOND  
TO THE COMPLAINT  
(FIRST REQUEST)**

Defendants, Evans Almona, Jay Barth, Jonathan Binder, Glenn Fowler, Robin Hennequin, Richard Linford, Jennifer Nash, Robert Owens, Larry Treadwell, and Brian Williams by and through counsel, Aaron D. Ford, Nevada Attorney General, and Alexander J. Smith (Attorney Smith), Deputy Attorney General, of the State of Nevada, Office of the Attorney General, hereby move for a forty-five day extension of time to answer or respond to the complaint (ECF No. 10). The deadline to answer or respond to the complaint is November 27, 2020 (as per ECF No. 21), but for the reasons outlined below, Defendants request a forty-five day extension of time to answer or respond to the complaint.

In the first week of November, Attorney Smith was assigned well over half a dozen new cases in addition to his almost four-dozen or so others after his colleague, Deputy Attorney General Matthew Feeley, recently departed the division. Some of these demanded immediate responses. Also, Attorney Smith has several summary judgment motion deadlines within the next forty days, and within the last two weeks, all Attorney General's Office staff have been ordered to stay at home because of the Coronavirus spike; Attorney Smith has had delayed access to the materials he needs in order to diligently defend all his cases. In order to familiarize himself with the case and to respond adequately and thoroughly, Attorney Smith needs further time to prepare a thorough response to the complaint.

Defendants therefore respectfully move under Rule 6(b)(1), Federal Rules of Civil Procedure, for a forty-five day extension of time to respond. This will take the deadline to answer or respond to the complaint from November 27, 2020, to January 11, 2020; good cause exists for granting this motion, and Samuel will not be prejudiced by this short delay.

## **I. LAW AND ARGUMENT**

### **A. Rule 6(b), Federal Rules Of Civil Procedure**

Rule 6(b)(1), Federal Rules of Civil Procedure, governs extensions of time and states:

When an act may or must be done within a specified time, the court may, for good cause, extend the time: (A) with or without motion or notice if the court acts, or if a request is made, before the original time or its extension expires; or (B) on motion made after the time has expired if the party failed to act because of excusable neglect.

If additional time for any purpose is needed, the proper procedure is to present a request for extension of time before the time fixed has expired. *Canup v. Mississippi Val. Barge Line Co.*, 31 F.R.D. 282 (W.D.Pa. 1962). An extension of time may always be sought and is usually granted on a showing of good cause if timely made under subdivision (b)(1) of the Rule. *Creedon v. Taubman*, 8 F.R.D. 268 (N.D. Ohio 1947).

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**B. Local Rules IA 6-1 And 26-3.**

LR IA 6-1 requires that a motion to extend time must state the reasons for the extension requested, and LR 26-3 requires that a motion to extend any date set by the discovery plan, scheduling order, or other order must, as well as satisfying the requirements of LR IA 6-1, demonstrate good cause for the extension.<sup>1</sup>

**C. Good Cause Exists, Thus An Order Should Grant Defendants' Motion For An Extension Of Time To Answer Or Respond To The Complaint**

Here, good cause exists for extending the deadline to answer or respond to the complaint by forty-five days. Defendants intend to move to dismiss; by extending the deadline, Samuel is under no danger of prejudice, and the delay is short.

Some of Attorney Smith's cases that he inherited from his predecessor have required immediate, lengthy attention, in addition to his usual caseload. Second, Attorney Smith started with the Nevada Attorney General's Office approximately two months ago and was only recently admitted to the Federal District Court (late September 2020). Upon commencement of his employment, Attorney Smith became counsel for the defense in over forty actions (now approximately fifty) and has worked assiduously and expeditiously to review each case file. Because of Attorney Smith having spent an inordinate amount of time satisfying several imminent deadlines in the recently assigned cases, Attorney Smith needs further time to adequately brief the court on why Samuel's complaint is legally deficient.

Bearing in mind the numerous technological difficulties caused by the State of Nevada moving to working from home because of the COVID-19 crisis, Attorney Smith is working diligently to defend this action.<sup>2</sup> In sum, Attorney Smith needs additional time in order to adequately move to dismiss.

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<sup>1</sup> LR 26-3 lists four factors that are considered upon adjudication of a motion to extend a discovery deadline or to reopen discovery, but these are not considered in this motion because Defendants neither move to extend a discovery deadline nor move to reopen discovery.

<sup>2</sup> Two weeks ago, all Attorney General's Office employees were ordered to work from home because of Governor Sisolak's "Stay at Home 2.0" plan. Following Sisolak's

1 **II. CONCLUSION**

2 For the reasons stated above, good cause exists for the granting of an extension, and  
3 Defendants respectfully move for an extension of the deadline to answer or respond to the  
4 complaint from November 27, 2020, to January 11, 2021.

5 DATED this 24th day of November, 2020.

6 AARON D. FORD  
7 Attorney General

8 By: /s/ Alexander J. Smith  
9 ALEXANDER J. SMITH (Bar No. 15484C)  
Deputy Attorney General

10 *Attorneys for Defendants*

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13 **NO FURTHER EXTENSIONS WILL BE GRANTED.**

14 IT IS SO ORDERED.

15 Dated: November 25, 2020

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Nancy J. Koppe  
United States Magistrate Judge

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28 November 22, 2020 announcement telling all Nevadans to stay at home whenever possible,  
the two-week stay at home direction has been extended for another three weeks.